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IT IS SO ORDERED.




Charles M. Caldwell
United States Bankruptcy Judge

Dated: October 11, 2011

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: : **CASE NO. 09-64850**
:
LPN HEALTHCARE FACILITY, INC., : **CHAPTER 11**
:
Debtor-In Possession. :

LPN Healthcare Facility, Inc., :
:
Plaintiff, : **ADV. PRO. NO. 11-2394**
:
v. :
:
TheraTrust, Inc., :
:
Defendant. :

**STIPULATION AND AGREED ORDER BETWEEN DEBTOR AND
THERATRUST, INC., REGARDING DEBTOR'S OBJECTION TO THERATRUST
PROOF OF CLAIM AND ADVERSARY PROCEEDING TO AVOID ALLEGED
JUDGMENT LIEN OF THERATRUST, INC.**

The above-captioned debtor and debtor-in-possession ("Debtor" or "LPN") and TheraTrust, Inc. ("TheraTrust" or "Defendant" and with the Debtor, collectively, the "Parties"), by and through their undersigned counsel, hereby enter into this stipulation (the "Stipulation") to

clarify and memorialize certain procedures for the prosecution and defense of the Claim Objection and Lien Avoidance Action (as each term is defined below).

WHEREAS, Debtor filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") on December 21, 2009 (the "Petition Date") and is a debtor-in-possession pursuant to §§1107 and 1108 of the Bankruptcy Code; and

WHEREAS, TheraTrust filed a proof of claim on April 20, 2010 [Claim No. 46] (the "TheraTrust PoC") in the amount of \$488,396.89, plus statutory interest from and after July 2, 2008, and asserts therein that the TheraTrust PoC is a secured claim secured by "proceeds from sale of nursing home beds" based upon a Judgment Entry dated July 2, 2008 entered by the Court of Common Pleas, Licking County, Ohio in Case No. 07-CV-01947; and

WHEREAS, the Debtor filed an objection to the TheraTrust PoC on September 7, 2011 [Docket No. 283] (the "Claim Objection"), seeking *inter alia*, the reclassification of the TheraTrust PoC to a general unsecured claim against the Debtor's estate; and

WHEREAS, the Debtor filed a complaint on September 8, 2011, commencing adversary proceeding 11-2394 (the "Lien Avoidance Action") against TheraTrust, seeking, *inter alia*, the avoidance of the lien asserted by TheraTrust and the reclassification of the TheraTrust PoC as a general unsecured claim against the Debtor's estate; and

WHEREAS, the Parties seek to address the issues raised by the TheraTrust PoC, the Claim Objection and the Lien Avoidance Action in a single action in order to maximize efficiency, conserve judicial and the Parties' resources and avoid duplicative costs and expenses of simultaneously prosecuting and defending the Claim Objection and Lien Avoidance Action.

NOW, THEREFORE, the Parties hereby stipulate and agree that:

1. All issues concerning the TheraTrust PoC, the Claim Objection, and the Lien Avoidance Action shall be addressed in the Lien Avoidance Action and TheraTrust need not file a response to the Claim Objection.

2. Defendant shall file a responsive pleading to the Debtor's complaint in the Lien Avoidance Action on or before November 7, 2011.

3. A copy of this Stipulation shall be docketed in each of the Debtor's administrative case, Case No. 09-64850 and the Lien Avoidance Action, adversary proceeding no. 11-2394.

STIPULATED AND AGREED TO:

BRICKER & ECKLER, LLP

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Attorneys for TheraTrust, Inc.

SO ORDERED.

Copies to: Default List
Tim J. Robinson, Esq.

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